United Nations S/AC.44/2004/(02)/82

Security Council

Distr.: General
10 December 2004

Original: English

Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 23 November 2004 from the Permanent Mission of the Marshall Islands to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of the Marshall Islands to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004), and has the honour to transmit herewith the national report of the Government of the Republic of the Marshall Islands pursuant to the resolution (see annex).

05-20278 (E) 270105

Annex to the note verbale dated 23 November 2004 from the Permanent Mission of the Marshall Islands to the United Nations addressed to the Chairman of the Committee

Republic of the Marshall Islands

First report pursuant to Security Council resolution 1540 (2004)

Steps taken by the Republic of the Marshall Islands to implement the provisions of Security Council Resolution 1540 (2004).

1. **Operative Paragraph 1**:

"Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery."

Response: The Republic of the Marshall Islands (RMI) does not provide any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical, or biological weapons and their means of delivery. Section 12 of the Counter Terrorism Act, 2002 authorizes the Marshall Islands to obtain an injunction against the development, production, stockpiling, transferring, acquisition, retention, or possession of any biological agent, toxin, toxic chemical or delivery system of a type or in a quantity that under the circumstances has no apparent justification for prophylactic, protective, or other peaceful purposes, or purposes not prohibited by law or the United Nations Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction. Section 24 of the Counter Terrorism Act requires all airlines, ships, and other entities providing transportation, conveyance or freight services to and from RMI to immediately report to the Attorney General cross-border movement of nuclear, chemical, biological and other potentially deadly materials. Section 25(1)(a) of the Counter Terrorism Act criminalizes the development, production, shipping, transportation, transfer, receiving, acquisition, retention, possession, importation, exportation, and manufacturing of weapons of mass destruction.

2. **Operative Paragraph 2**:

"Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them."

Response: Further to Section 25 (1)(a) of the Counter Terrorism Act, 2002 (referred to in response 1 above), Section 25(1)(b) of the Counter Terrorism Act further criminalizes acts where there is intention to engage in terrorism or where there is knowledge that the weapon of mass destruction is intended to be used for terrorist purposes.

3. **Operative Paragraph 3:**

"Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;"

Response: There is no production, use, storage or transport of nuclear, chemical, or biological weapons in RMI.

(b) Develop and maintain appropriate effective physical protection measures;"

Response: See response to 3(a) above.

(c) Develop and maintain appropriate effective border control and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;"

Response: Section 24 of the Counter Terrorism Act, 2002 obligates all airlines, ships, and other entities that provide transportation, conveyance or freight services to and from RMI to immediately report traffic in arms, explosives, sensitive material, and cross-border movement of nuclear, chemical, biological and other potentially deadly materials. Section 8 of the same Act authorizes seizure, confiscation and forfeiture of weapons of mass destruction, plastic explosives, and nuclear material.

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;"

Response: See response to 3(a) above.

6. **Operative Paragraph 6:**

"Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member State, when necessary, to pursue at the earliest opportunity the development of such lists."

Response: Because there is no production, use, storage or transport of nuclear, chemical, or biological weapons in RMI, it has no control lists for chemical, biological and nuclear and related materials.

7. **Operative Paragraph 7:**

"Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invite States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructures, implementation experience and/or resources for fulfilling the above provisions."

Response: RMI is a small island developing State, and is one of the smallest jurisdictions in the Pacific region. Like other small developing States, RMI requires assistance with the further implementation of resolution 1540, as well as the key multilateral non-proliferation treaties. Specifically, RMI requires assistance with completing a review of its current national legislation in order to determine what further steps must be taken to ensure the full implementation of the provisions of resolution 1540 and the relevant treaties. RMI is also in need of particular assistance with the implementation of trans-shipment controls.

8. **Operative Paragraph 8:**

"Calls upon all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;"

Response: RMI is a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), and during 2004 has also ratified the Chemical Weapons Convention (CWC). RMI advocates for the universal adoption of these treaties, and is currently working to ensure that its national legislation is sufficient to fully implement the provisions of the treaties. RMI will participate in the 2005 Review Conference of States Parties to the NPT.

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;"

Response: In 2002, RMI adopted the Counter Terrorism Act. This Act partially implements the provisions of the key multilateral non-proliferation treaties that RMI is a party to. As mentioned above, RMI is in need of technical assistance in order to complete a review of its current national legislation in order to determine

what further steps must be taken to ensure the full implementation of the provisions of resolution 1540 and the key multilateral non-proliferation treaties. RMI is in the process of executing a Safeguards Agreement with the International Atomic Energy Agency (IAEA), in accordance with the Treaty on the Non-Proliferation of Nuclear Weapons (NPT).

(c) To renew and fulfill their commitments to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;"

Response: As mentioned above, RMI is in the process of executing a Safeguards Agreement with the IAEA, in accordance with the NPT. RMI participated in the IAEA Interregional Seminar in Vienna, Austria from November 26-28, 2003 on the Agency's Safeguard System. RMI will participate in a further seminar in Sydney, Australia from November 10-11, 2004 on the conclusion and implementation of the Safeguards Agreements and the additional protocols.

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;"

Response: RMI has not yet taken steps in this regard, mainly due to the fact that RMI does not produce nuclear, chemical, or biological weapons or materials. However, RMI is in the process of developing a system to issue public announcements to raise awareness of the provisions of the key multilateral non-proliferation treaties and the RMI Counter Terrorism Act, 2002. Such announcements will also inform the public of the obligations and prohibitions under the Act, and the penalties to be imposed for any violation of the Act.

9. **Operative Paragraph 9**:

"Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery."

Response: See responses to 8 (a) and (c) above.